



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000  
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July 9, 2013

Randy Miller  
Northwest Pipeline GP  
295 Chipeta Way  
Salt Lake City, UT 84108

RE: Water Quality Certification Order #9865 for U.S. Army Corps of Engineers Reference  
#NWS-2012-574, South Seattle Delivery Lateral Expansion Project, in King County,  
Washington

Dear Mr. Miller:

On June 8, 2012, Northwest Pipeline GP submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the above project. A request to withdraw and re-apply for a 401 Certification was submitted on June 3, 2013.

On behalf of the State of Washington, Ecology certifies that the South Seattle Delivery Lateral Expansion (between mileposts 0.00 and 1.74 and between mileposts 2.17 and 4.00), as described in the JARPA, revised project description, and the public notice, complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

This Order does not authorize the Cedar River crossing segment between mileposts 1.74 and 2.17. The Applicant shall submit a separate JARPA for a separate 401 Certification from Ecology for that segment of the project.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Erik Stockdale, Interim Section Manager  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

ES:rrp:cja

Enclosure

By certified mail: 7012 1640 0000 7227 8041



cc: Olivia Romano, U.S. Army Corps of Engineers  
Kevin Bowman, FERC  
Carolyn Last, Edge Environmental, Inc.  
Larry Fisher, Washington Department of Fish and Wildlife  
Trina Sunderland, Washington Department of Natural Resources  
Jody Walters, NOAA Fisheries  
Lisa Wood, USFWS  
William Vogel, USFWS  
Laura Casey, King County DDES  
Martin Fox, Muckleshoot Indian Tribe

e-cc: Patrick McGraner – NWRO  
Barbara Nightingale – NWRO  
Loree' Randall – HQ  
Raman Iyer – NWRO  
Karen Walter, Muckleshoot Indian Tribe [KWalter@muckleshoot.nsn.us](mailto:KWalter@muckleshoot.nsn.us)  
Gregory McElroy, McElroy Law Firm, PLLC [gmcclroy@mcelroylaw.com](mailto:gmcclroy@mcelroylaw.com)  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #9865</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference #NWS-2012-574</b>
<b>CERTIFICATION TO</b>	)	South Seattle Delivery Lateral Expansion
<b>NORTHWEST PIPELINE GP</b>	)	Project; Wetlands and Unnamed Streams,
in accordance with 33 U.S.C. 1341	)	King County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

TO: Randy Miller  
Northwest Pipeline GP  
295 Chipeta Way  
Salt Lake City, UT 84108

On June 8, 2012, Northwest Pipeline GP submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A request to withdraw and re-apply for a 401 Certification, along with a revised project description, was submitted on June 3, 2013. Public notices regarding the request were distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on September 5, 2012 and June 13, 2013.

The expansion to increase delivery capacity includes removal and replacement of 3.57 miles of the existing 10-inch-diameter pipeline with 16-inch-diameter pipeline. Additional work includes:

- Installation of new appurtenances
- Modifications to existing appurtenances
- Modifications to existing facilities
- Removal of an existing pig launcher
- Installation of a new aboveground pig launch/receiver/tieover facility with a permanent access road
- Restoration of the right-of-way and temporary work areas

The project will cross 11 waterbody and jurisdictional wetland systems for a total of 553.61 feet. The four waterbodies will be crossed when the streams are dry or using a dry open-cut crossing method (fluming or dam and pump).

Approximately 1.24 acres of wetlands will be impacted as a result of this project, including 0.60 acre of palustrine emergent wetlands, 0.05 acre of riverine wetlands, 0.26 acre of palustrine scrub shrub wetlands, and 0.33 acre of palustrine forested wetlands. Approximately 7.23 acres of wetland buffer will be impacted, including 1.79 acres of westside lowlands conifer-hardwood forests.

Mitigation includes implementation of restoration and revegetation projects, along with riparian vegetation enhancement plantings within the project's temporary construction right-of-way and

temporary extra work areas (1.19 acres). Temporal wetland impacts to palustrine forested and scrub shrub wetlands are proposed to be mitigated through purchase of credits from King County's in-lieu fee program, the King County Mitigation Reserves Program.

The project is composed of two segments located along a corridor of Northwest Pipeline right-of-way (between mileposts 0.00 and 1.74 and between mileposts 2.17 and 4.00), starting immediately east of 230<sup>th</sup> Avenue SW in unincorporated King County and terminating west of Parkside Way SE, 1.5 miles east of the Renton city limits, in King County, Washington, wetlands and unnamed streams, Sections 27, 28, 29, and 30, T. 23 N., R. 6E., and Section 25, T. 23 N., R. 5E., WRIA 8.

#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§ 1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. § 1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

#### **WATER QUALITY CERTIFICATION CONDITIONS:**

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

**A. General Conditions:**

- A1. For purposes of this Order, the term "Applicant" shall mean Northwest Pipeline GP and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #9865 and Corps Reference #NWS-2012-574.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 8, 2012, and the revised project description received on June 3, 2013. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
  - a. This Order does not authorize the Cedar River crossing segment between mileposts 1.74 and 2.17. The Applicant shall submit a separate JARPA and receive a separate Water Quality Certification from Ecology for that segment of project.
- A4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
- A5. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- A6. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
- A7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
- A8. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology

a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project or mitigation sites.

- A9. This Order shall be rescinded if the Federal Energy Regulatory Commission does not issue authorization for the project.
- A10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
- A11. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

**B. Wetland Mitigation Conditions:**

- B1. The Applicant shall mitigate impacts as described in the *Wetland, Waterbody, and Critical Area Buffer In-Lieu Fee Plan (for use of the King County Mitigation Reserves Program [KCMRP]), South Seattle Delivery Lateral Expansion Project* (hereafter called the "ILF Use Plan"), prepared by Northwest Pipeline GP, dated June 2013, or as revised and approved by Ecology.
- B2. The Applicant shall obtain two pieces of documentation from the Sponsor as proof of purchase of 0.47 acre of ILF credit for this impact project. The documentation must be submitted to Ecology (see A2) prior to impacting wetlands.

Documentation from the Sponsor shall include:

- a. Ecology's Order number,
  - b. Order issuance date,
  - c. Number of credits purchased,
  - d. Resource type of credits,
  - e. Signatures from the Sponsor and the Applicant, and
  - f. An updated ledger from the Sponsor showing that the credits were available and have been withdrawn from King County Mitigation Reserves Program.
- B3. If the Applicant cannot complete the purchase of credits before impacts to wetlands occur, Ecology may require additional compensation to account for additional temporal loss.
  - B4. The Applicant shall notify and submit in writing to Ecology (see A2) any proposed changes to the amount of wetland impacts, revision to the mitigation plan, and/or

submittal of new information (See B2) for review and approval before the proposed change is implemented.

Corridor Work and Restoration

- B5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and above the 100-year floodplain.
- B6. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.
- B7. The Applicant shall ensure that no construction debris is deposited within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
- B8. The Applicant shall not use Polyacrylamide on exposed or disturbed soil at the mitigation site(s).
- B9. The Applicant shall not use hay or straw on exposed or disturbed soil at the restoration site(s).
- B10. If seeding is used at the wetland restoration site, the seed mix must contain native, annual, non-invasive plant species as specified in the Mitigation Plan.
- B11. The Applicant shall implement BMPs for protection of WMP3.08 as described in the *Site Specific Plan for Wetland WMP3.08, South Seattle Delivery Lateral Expansion Project*, prepared by Northwest Pipeline GP, dated April 24, 2013, or as revised and approved by Ecology.

**C. Water Quality Conditions:**

- C1. The unnamed streams are classified as "Core Summer Salmonid Habitat" and the criteria of that class apply except as specifically modified by this Order. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
- C2. The Applicant shall implement in-water construction water quality sampling and monitoring per the *Water Quality Monitoring Plan (401 Compliance), South Seattle Delivery Lateral Expansion Project* (hereafter called the "Water Quality Monitoring Plan") prepared by Northwest Pipeline, GP, and dated June 18, 2013, or as modified by this Order or revised and approved by Ecology.

- C3. Reporting: If no exceedances are detected, results of water quality sampling shall be forwarded to Ecology on a bi-weekly basis in accordance to Condition A2.
- C4. Notification of exceedances: Notification of exceedances that are detected through visual inspections or water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #9865, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- i. A description of the nature and cause of exceedance.
  - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
  - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.

Hydrostatic Test Water:

- C5. The release of hydrostatic test water and trench dewatering activities shall be visually monitored in order to ensure that no oily sheen is discharged to waters of the state.

**D. Conditions for Construction Activities:**

- D1. Applicant shall comply with Construction Stormwater General Permit #WAR127123 for this project.
- D2. Construction stormwater, sediment, and erosion control best management practices (BMPs; e.g., filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- D3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- D4. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.



- D5. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- D6. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- D7. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.
- D8. All manmade debris that has been deposited below the Ordinary High Water Line within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that has washed into wetland and freshwater areas shall be removed from the project area.
- D9. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
- D10. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated and marked with brightly colored construction fence, so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
- D11. Waterbody crossings from equipment shall be minimized to the extent practicable.
- D12. Appropriate BMPs shall be utilized and maintained on all temporary construction bridges in order to prevent soil from entering waters of the state.
- D13. Temporary slope breaker outfalls shall be positioned to prevent discharges of turbid water to waters of the state, including wetlands.
- D14. Trench breakers shall be installed where necessary in order to prevent wetlands from draining through the pipeline trench and to maintain hydrologic integrity.
- D15. Applicant shall use low-ground-weight construction equipment or pre-fabricated equipment mats or similar measures where necessary in order to minimize ruts or mixing of the topsoil and subsoil in wetlands.

- D16. Drilling mud shall be handled in such a way that it does not enter waters of the state.
- D17. Trench or stream dewatering shall be conducted in order to prevent discharges of turbid water to waters of the state, including wetlands.
- D18. Hydrostatic test water shall be obtained from municipal sources and may not be withdrawn from surface waters without prior approval from Ecology.

Dry Open-Cut Crossings:

- D19. The Applicant shall conduct crossings of the streams when dry, or by using a dry open-cut crossing method (fluming or dam and pump).
- D20. All dry open cut crossings shall be completed as a single effort to minimize the time of instream disturbance.
- D21. Flumes or dams and pumps shall be completely installed and functioning prior to any instream disturbance.
- D22. All instream excavation shall be completed between the dams in order to prevent turbid water from flowing downstream.
- D23. All temporary spoil placement shall be at least 10 feet from the waterbody and shall be contained by sediment barriers.
- D24. Flumes shall be removed as soon as possible following backfilling of the trench.
- D25. At completion of each stream crossing, flume pipes shall be lifted out of the streambed. Flume pipes may not be dragged from the streambed.
- D26. All banks shall be stabilized and temporary sediment barriers installed within 24 hours of completing the crossing.

**E. Emergency/Contingency Measures:**

- E1. The Applicant shall implement the *Spill Plan for Oil and Hazardous Materials, South Seattle Delivery Lateral Expansion Project, King County, Washington*, prepared by Northwest Pipeline, GP, received by Ecology on June 8, 2012, or as modified by this Order or revised and approved by Ecology.

- E2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- E3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
- E4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant shall immediately take the following actions:
  - a. Cease operations at the location of the violation or spill.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
  - d. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

**F. Timing Requirements**

- F1. All in-water work shall be completed by the work window identified in the most current Hydraulic Project Approval (HPA) issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
- F2. This Order expires five (5) years from the date of issuance of this Order.

**G. Reporting and Notification Requirement Conditions**

- G1. The Applicant shall provide to Ecology's 401/CZM Federal Permit Manager a copy of the final FERC Notice to Proceed within 2 weeks of receipt of the notice. A copy shall be submitted per condition A2 above.
- G2. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager:
- At least three (3) days prior to the start of each construction season.
  - Within 14 days after completion of construction for each season at the project site.
- Notification, referencing Corps Reference #NWS-2012-574, Order #9865 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.
- G3. The Applicant shall notify Ecology's 401/CZM Federal Permit Manager at least seven (7) days prior to beginning of any hydrostatic testing of the pipeline.
- G4. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and planting is complete.

**YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

## ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

## CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett  
Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008  
(425) 649-7129  
[rebekah.padgett@ecy.wa.gov](mailto:rebekah.padgett@ecy.wa.gov)

## MORE INFORMATION

**Pollution Control Hearings Board Website**  
[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)

**Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

**Chapter 371-08 WAC – Practice And Procedure**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

**Chapter 90.48 RCW – Water Pollution Control**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

**Chapter 173-204 WAC – Sediment Management Standards**  
[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.html)

**Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173200.html](http://www.ecy.wa.gov/biblio/wac173200.html)

**Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

**SIGNATURE**



Erik Stockdale, Interim Section Manager  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

7.9.2013

July 9, 2013

**ATTACHMENT A**

**NORTHWEST PIPELINE GP  
SOUTH SEATTLE DELIVERY LATERAL EXPANSION PROJECT  
Water Quality Certification Order #9865**

**Statement of Understanding of  
Water Quality Certification Conditions**

I have read and understand the conditions of Order #9865 Section 401 Water Quality Certification for the Northwest Pipeline GP South Seattle Delivery Lateral Expansion Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company